

Application No. 10/634,499
Amendment Dated December 21, 2006
Reply to September 27, 2006, Office Action

Remarks:

Status of Claims

Claims 28-40, 42-52, and 55-61 were previously pending. Claims 28, 37, 46, and 61 have been amended herein. Thus, claims 28-40, 42-52, and 55-61 remain pending with claims 28, 37, 46 and 61 being independent.

Office Action

In the September 27, 2006, Office action, the Examiner rejected all pending claims under 35 U.S.C. § 102(a) as being anticipated by Faure (U.S. Patent No. 6,470,641). The Examiner also rejected all claims under 35 U.S.C. § 102(b) as being anticipated by West (U.S. Patent No. 6,314,699). Applicant respectfully submits that the arguments and amendments made herein overcome the Examiner's rejections. A Rule 131 Affidavit is also submitted herewith to establish invention of the claimed subject matter before the filing of at least one of the references cited in Applicant's recently-filed IDS.

Rejections in view of West

In the previous Amendment, Applicant argued that claims 28-36 were allowable because they included the feature of a board having a lower lip thickness "E" and a fastener (20) having a protrusion (34) with a height "F," wherein "E" is at least 1% greater than F, and F is specifically the "the average vertical distance from [a] base to the protrusion." The Examiner equates West's nubs

(48) with the claimed protrusions (34) to anticipate the independent claims (Office action, page 3, ¶ 5).

All independent claims have been amended herein to recite that the fastener protrusions (34) extend "generally perpendicularly from a vertical axis of the fastener." The feature is illustrated in FIG. 5 of the present application, which is reproduced below with annotations for the Examiner's reference:

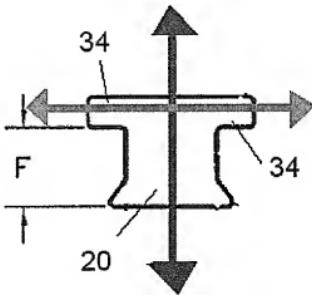
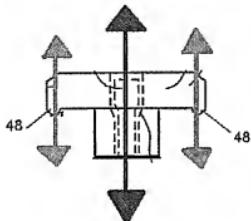


FIG. 5 (with annotations)

In contrast, West's nubs (48) extend generally parallel to the vertical axis of West's fastener, as is shown in West FIG. 1A, reproduced below for the Examiner's reference:

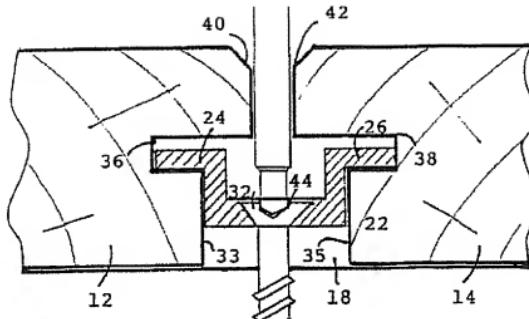


West FIG. 1A (with annotations)

Consequently, West's nubs (48) cannot be considered to be the same as the claimed protrusions (34). Further, West does not disclose or suggest other perpendicularly-extending protrusions that have an average vertical distance less than a board's lower lip thickness, as is discussed at length in Applicant's previous Amendment.

Rejections in view of Faure

All independent claims have been amended herein to recite a "generally T-shaped" fastener. As shown in FIG. 5 of the present application, reproduced on the preceding page, the fastener provided by embodiments of the present invention is generally T-shaped to facilitate its installation and use. In contrast, the fastener provided by Faure is generally U-shaped, as is shown below.



Faure FIG. 2

Consequently, Faure does not disclose or suggest a generally T-shaped fastener. Further, Faure teaches away from T-shaped fasteners due to its reliance on a U-shaped design for the formation of desired gaps (col. 1, ll. 49-57). The claimed fastener is advantageous over the prior art in that it enables the boards to be more securely bound to the joists.

Conclusion

In view of the arguments and amendments made herein, Applicant respectfully submits that claims 28-40, 42-52, and 55-61 are in allowable condition and requests a corresponding Notice of Allowance. In the event of further questions, the Examiner is urged to call the undersigned. Any

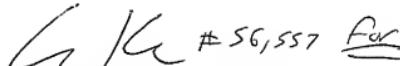
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additional fee which might be due in connection with this application should be applied against our
Deposit Account No. 19-0522.

Respcctfully submitted,

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